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COMMITTEE MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING
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2ND FLOOR
SIERRA HEARING ROOM
SACRAMENTO, CALIFORNIA

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APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chair

Ms. Rosario Marin

Mr. Carl Washington

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Ms. Marie Carter, Chief Counsel

Mr. Michael Bledsoe, Staff Counsel

Mr. Mark de Bie, Branch Manager, Permitting & Inspection
Branch

Ms. Donnell Duclo, Executive Assistant

Mr. Tadese Gebre-Hawariat, Staff

Mr. Howard Levenson, Deputy Director

Ms. Bea Poroli, Staff

Ms. Geralda Stryker, Supervisor, South Central Section

Mr. Scott Walker, Branch Manager, Remediation, Closure, &
Technical Services Branch

ALSO PRESENT

Mr. Jim Ambroso, District Manager, Allied Waste

Ms. Tammy Derby, Sacramento County LEA

Mr. Evan Edgar, CRRC

Ms. Kathy McNeil, San Diego County LEA

Mr. Mark Perry, Lilburn Corporation

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1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good morning. Welcome to the
3 May 2nd meeting of the Permitting and Enforcement
4 Committee.

5 We do have agendas on the back table. And if
6 anyone would like to speak to the Committee, please fill
7 out a speaker slip form and give them to Donnell here at
8 the front, and then you will have an opportunity to
9 address our Committee.

10 I also would like to ask if you would please
11 either turn off your cell phones and pagers or put them in
12 the silent mode. And that would help us conduct business
13 a little bit more efficiently. Thank you.

14 Donnell, could you please call the roll?

15 SECRETARY DUCLO: Members Marin?

16 COMMITTEE MEMBER MARIN: Here.

17 SECRETARY DUCLO: Washington?

18 COMMITTEE MEMBER WASHINGTON: Here.

19 SECRETARY DUCLO: Chair Mulé?

20 CHAIRPERSON MULÉ: Here.

21 Board members, do you have any ex partes?

22 COMMITTEE MEMBER MARIN: I'm up to date.

23 COMMITTEE MEMBER WASHINGTON: I'm up to date.

24 CHAIRPERSON MULÉ: Howard, good morning. Could
25 you give us your Deputy Director's report, please.

1 DEPUTY DIRECTOR LEVENSON: Certainly, Madam

2 Chair.

3 Howard Levenson, Deputy Director for Permitting
4 and Enforcement.

5 First item on my report is let me congratulate
6 Member Marin and Member Mulé for your confirmations.
7 We're very happy for you and look forward to working with
8 you for a long time.

9 COMMITTEE MEMBER WASHINGTON: Too bad you can't
10 say that for me, huh.

11 DEPUTY DIRECTOR LEVENSON: I look forward to
12 working with you for a long time.

13 COMMITTEE MEMBER WASHINGTON: Yeah, right. For
14 three more months.

15 COMMITTEE MEMBER MARIN: That's not the numbers
16 we conduct -- hello.

17 DEPUTY DIRECTOR LEVENSON: I've got three things
18 to tell you about this morning.

19 First of all, I'd like to give you an update on
20 the inventory of facilities that are in violation of State
21 Minimum Standards. As you know, statute requires the
22 Board to publish this inventory twice a year. This is
23 essentially a public disclosure of information that has
24 somewhat of a negative connotation, because it's about
25 facilities are that in violation of State Minimum

1 Standards for prolonged periods of time. And as such, it
2 provides an incentive to owners and operators to achieve
3 and maintain compliance.

4 In the past, we've come to you at the Committee
5 level biannually with a lengthy and somewhat contorted
6 agenda item that took a long time to prepare to accomplish
7 this. But over the past year, we've been moving towards
8 publishing a live version of the inventory on the web.
9 And I've indicated to you that we use this live version to
10 provide you with a twice-yearly presentation of the
11 compliance with statute through my Deputy Director's
12 report.

13 So, Debra, if you can flash that up on the
14 screen.

15 On your screens, or at least behind you, is the
16 current list as it appears on our website. This list is
17 updated in real time as sites are added and removed. And
18 users that wish to see what the list looked like on
19 previous days can use the search function to see was this
20 facility was on a year ago or two years ago or whatever.

21 As you can see from this brief list, there's 14
22 separate sites on the inventory. All these are under or
23 will soon be under the required compliance schedules. In
24 some cases, the LEA has opted to not establish a
25 compliance date until it gets determinations from other

1 agencies, such as Department of Toxic Substances Control
2 and the Regional Water Boards.

3 Eight of these 14 sites have gas violations. If
4 you click on the facility name, which we're not going to
5 do here today, one can see the specific violations that
6 placed the facility on the inventory. In the near future,
7 we're going to have a separate web page that will allow
8 you to see LEA enforcement and inspection information for
9 all sites that we permit, not just those on the inventory.
10 That page will include a lot more detailed information on
11 enforcement orders for the facilities that are listed on
12 the inventory itself. So we've been working with LEAs to
13 fine tune this page, and we hope to have it live within
14 the next few months.

15 We're available to answer any questions you may
16 have about specific sites on the inventory. Since this is
17 the first time we presented this information to you in
18 this manner, we'd also like to know whether it satisfies
19 your needs, if you can get that feedback to us today or
20 sometime in the future.

21 COMMITTEE MEMBER MARIN: You know, I would love
22 to see a very, very small description of the violation.
23 For example, you know if eight of them are the long-term
24 violations, then it tells us that I know that this is a
25 problem that will not likely be resolved immediately. But

1 the other ones, I know it will help me keep track of what
2 is it that they're doing. So a small description, Howard.

3 DEPUTY DIRECTOR LEVENSON: So an extra column.

4 COMMITTEE MEMBER MARIN: Right next to the
5 facility name or SWIS number or issue date. It doesn't
6 matter. Just another column with a very, very short
7 description of what the major violation is.

8 DEPUTY DIRECTOR LEVENSON: I know that you can
9 get the information if you click on the site, but I think
10 it would be helpful to have it on the front so you can
11 look at all comparatively.

12 COMMITTEE MEMBER MARIN: Right.

13 CHAIRPERSON MULÉ: Just to have a snapshot view
14 of the facilities and the nature of the problems.

15 Thanks, Howard.

16 DEPUTY DIRECTOR LEVENSON: We'll work on that
17 with IWB.

18 Secondly is I'd like to let you know a little bit
19 about what our Closed and Illegal Abandoned Sites Program
20 has been doing at Belmont Shores Mobile Home Park in Long
21 Beach. This is a representative example of the enhanced
22 public participation efforts that are conducted by various
23 programs in P&E and across the board.

24 This is an example of a mobile home park that was
25 built over an old landfill that was closed in the late

1 1950s. The park was developed in 1962, and there have
2 been incidents at the site with gas migrating into the
3 mobile homes. In the 1970s, there was an explosion, and
4 it killed one person. It was attributed to buildup of
5 methane in the sewer system. In the 1990s, welding work
6 being performed beneath one of the houses caused an
7 explosion and fire, which injured some of the workers and
8 caused the owners to install a venting system underneath
9 the mobile home.

10 So we, of late, in conjunction with the LEA have
11 been conducting monitoring at 33 different points across
12 the site. We did it biweekly for a 16-month period late
13 last year and early this year. And the results were
14 staggering; average concentration of 51 percent methane in
15 the ambient atmosphere.

16 On Thursday night, the 21st, two weeks ago, our
17 staff held a very successful public meeting at the mobile
18 home's main office in Long Beach to discuss our
19 investigation to date, which has been coordinated with the
20 L.A. County LEA, and what's next. This was attended by
21 about half of the homeowners who have voluntarily agreed
22 to install gas sensors in the skirts of their mobile homes
23 and was also attended by a representative of the
24 Homeowners' Association.

25 We went over all of the responsibilities for

1 inspecting the sites, the results to date of the
2 investigation, and the plans that we have to install a
3 continuous gas monitoring system so we have a better
4 handle on what's really happening at the site and can
5 forewarn residents if there's any danger.

6 Obviously, the residents are very rightly
7 concerned about gas levels at the site. But they also
8 understand that the mobile home park was built on top of
9 the landfill that was closed in the '50s, and there's
10 potential for gas migration. They're very receptive to
11 having their houses continuously monitored for gas.

12 That's a problem I think we're going to see
13 popping up where there's been development on old landfills
14 we've already seen in a number of places.

15 The installation of the continuous gas monitoring
16 system will occur in the latter part of this month or
17 early next month through our support contract for the CIA
18 program. The property has also been in management
19 transition, which has complicated our efforts. We've been
20 in discussions with the park's new property management
21 company, who will be taking over the lease. They've
22 agreed to provide us site access, which is always critical
23 in terms of any of these investigative or remediation
24 activities so that we can continue the gas monitoring.
25 And they've also indicated that the company will provide

1 at least some funding to address landfill maintenance and
2 gas monitoring issues.

3 And so I brought this to your attention, because
4 it's been a long ongoing investigation. It's symptomatic
5 of many of the problems that we're likely to see popping
6 up in the next few years. It's obviously very
7 complicated. We're not sure yet what the final resolution
8 is going to be. But it's a great example of how we're
9 trying to involve the concerned residents and keep them
10 informed of a situation that's potentially very dangerous
11 for them.

12 Lastly -- sorry.

13 COMMITTEE MEMBER MARIN: I have some questions,
14 Howard.

15 I appreciate the fact that the residents
16 obviously are very concerned and they came in. But aside
17 from the monitoring that we are doing and checking the
18 levels and so forth, has there been any thought about
19 installing a methane extractor?

20 DEPUTY DIRECTOR LEVENSON: That absolutely could
21 be one of the next steps. We have to do a little bit more
22 in terms of continuous monitoring to see where the
23 problems are. But that could be the next phase. And who
24 would pay for that, of course, will have to be
25 considered -- I don't know, Scott, if you have any more

1 details.

2 COMMITTEE MEMBER MARIN: Well, you know, I'm
3 concerned. How many people are we talking about that are
4 living there? Not that it really would make any
5 difference. But I'm sure children are living in that
6 area. I'm very concerned about that.

7 BRANCH MANAGER WALKER: Scott Walker, Permitting
8 and Enforcement Division.

9 The site has approximately 70-some-odd trailer
10 park residents. And right now there are certain options,
11 which actually have been implemented in trailer parks.
12 You can have certain institutional controls where they
13 have breezeways underneath. To a certain extent, that's
14 happened at the site, which is reassuring.

15 But the property owner ultimately will be
16 responsible for installing additional measures if they're
17 required. And it may include, you know, active flare
18 systems, may include passive systems. It may actually
19 include just institutional controls on the actual trailer
20 construction of the breezeway.

21 COMMITTEE MEMBER MARIN: Well, I feel that
22 whatever we need to do -- and if we need to -- I don't
23 know how much longer we can wait and the risk that we're
24 asking these people to sustain. I mean, I know that they
25 purchase their property or purchase their home mobile as

1 part of the mobile park. But if we know and there's
2 already an accident, you know, we cannot wait until
3 another accident occurs to install some of these devices
4 or some of these measures. I really think we need to --
5 if we need to order the installation and have the owner,
6 you know, assume the cost. We can't --

7 DEPUTY DIRECTOR LEVENSON: As indicated, Scott
8 and his staff have been in discussion with the new
9 property management company. And they are -- at least
10 have indicated, they will pay some or all of the required
11 maintenance.

12 The next step -- and this is in conjunction with
13 both the homeowners and the LEA and the property owner --
14 is to conduct this continuous monitoring so we can see,
15 you know, exactly where the problem is and then design the
16 right kind of system to address that.

17 So I think that you're absolutely right. This is
18 a big problem. We're right there. Dawn Owen of our staff
19 is down there more than she's up here and working with the
20 homeowners. So I think we're on the right track.
21 Clearly, something has to be finalized.

22 COMMITTEE MEMBER MARIN: And in addition to that,
23 Howard, I think that this prompts us to actively monitor
24 other sites that we know may be -- you know, the fate may
25 be the same. You know, having experienced one with these

1 problems, we can't wait until another one.

2 DEPUTY DIRECTOR LEVENSON: We can do a follow-up
3 with more details on the site.

4 COMMITTEE MEMBER MARIN: We do need to do it.

5 DEPUTY DIRECTOR LEVENSON: This is typically what
6 we do in terms of assisting the LEAs. They come across
7 these sites and there's some indication of a problem, our
8 CIA will staff will go in and do the right investigative
9 work to find out what the exact nature of the problem is
10 and work with the various entities to get a resolution.

11 COMMITTEE MEMBER MARIN: This is an area where we
12 need to enforce it to the fullest extent of the law that
13 is available to us.

14 DEPUTY DIRECTOR LEVENSON: This tends to be a
15 hidden side of the Board's work. You don't really heard
16 about this. It's ongoing, these kinds of field
17 investigations, trying to find out what the nature of the
18 problem is at these abandoned sites. It's quite
19 complicated and often takes years to resolve, both legally
20 and technically.

21 COMMITTEE MEMBER MARIN: Yeah, I know. But we
22 can't wait. We shouldn't be waiting. We need to be
23 active on it.

24 Thank you, Howard.

25 Thank you, Scott.

1 DEPUTY DIRECTOR LEVENSON: Thank you. That's why
2 we want to bring that to your attention, because this is
3 systematic.

4 Lastly, just a couple notes on ucoming items and
5 activities. The primary item for us, of course, in P&E is
6 the LEA Conference in Anaheim on May 11th and 13th. This
7 is a conference that will cover numerous topics, including
8 sessions on our ongoing AB 1497 regulatory activities, our
9 Tire Program and LEA Tire Enforcement Grants, nuclear
10 waste transport, coordination with Regional Water Boards,
11 fires and solid waste piles, 21st century approaches to
12 illegal dumping. And one of our favorite topics is
13 dealing with morphing facilities as waste streams and
14 diversion activities change on site.

15 We'll also have a mini Trade Show and field
16 trips. Since this conference illuminates our efforts to
17 build collaboration and partnership, we have scheduled a
18 session in the first evening with Board members and LEAs,
19 so we hope to provide the opportunity for you to come over
20 after the Board meeting and relax with our local
21 government partners. And we, of course, appreciate any
22 time that you can spend with us on the following two days,
23 on Thursday and Friday.

24 Lastly, for June, the P&E agenda. In addition to
25 our typical suite of permit items, we're also planning to

1 bring you items hopefully for the adoption of the RD&R
2 regulations, the Subtitle D RD&R regs. Also adoption of
3 the landfill gas, long-term landfill gas violation
4 regulations, and a verbal update on the progress of the AB
5 1497 regulatory package.

6 With respect to the RD&D regs, we have been
7 informed by Water Board staff that they plan to bring the
8 Water Board policy to the Board, their Board, in June for
9 adoption to amend the policy. So if that happens, we will
10 be right in sync with the Water Board in moving these
11 regulations forward in terms of timing.

12 That concludes my report. I'd be happy to answer
13 any questions you have.

14 CHAIRPERSON MULÉ: Are there any questions?

15 COMMITTEE MEMBER MARIN: On the LEA conference, I
16 know that's after the Board meeting; correct?

17 DEPUTY DIRECTOR LEVENSON: It starts the morning
18 of the Board meeting, but continues on for Thursday and
19 Friday.

20 COMMITTEE MEMBER MARIN: So when is it that you
21 need us there? After the Board meeting?

22 DEPUTY DIRECTOR LEVENSON: After the Board
23 meeting.

24 COMMITTEE MEMBER MARIN: Okay. All right. I
25 know right before the Board meeting we have some events

1 here.

2 CHAIRPERSON MULÉ: Thank you, Howard. I
3 appreciate that.

4 But let me just ask a quick question. Is there
5 any update on our La Montaa celebration?

6 DEPUTY DIRECTOR LEVENSON: Scott left. The last
7 I heard was the potential for it to be the Saturday, I
8 believe, it was May 14th. I don't know if that's been
9 finalized the Senator Escutia's office.

10 COMMITTEE MEMBER MARIN: We believe the Senator
11 might not be able to be there, but I know her
12 representatives will be there.

13 What has happened is that we've been waiting for
14 the Senator's schedule to be available, and we have
15 actually cleared the mountain now for a few weeks. And,
16 you know, the celebration will be not a celebration
17 anymore unless we do it timely. And so I think we're
18 going to go ahead.

19 And certainly we have extended the invitation to
20 the Senator. But we believe that her schedule might not
21 be able to allow her to be there. But some of her
22 representatives will be there. So I believe it is
23 scheduled for the 14th. And, of course, the Board members
24 will be invited and welcome to come.

25 DEPUTY DIRECTOR LEVENSON: Jon Myers and Chris

1 Peck from our Public Affairs Office have been coordinating
2 that. So we can get more details on that to you right
3 away.

4 CHAIRPERSON MULÉ: Thank you. Appreciate that.

5 Let's move on to our agenda items. We have item
6 B, Howard.

7 DEPUTY DIRECTOR LEVENSON: We have four permit
8 items for you this morning. The first one, Item B, is
9 Consideration of a New Full Solid Waste Facilities Permit
10 for the California Concrete Crushing and C&D Recycling in
11 Sacramento County.

12 Bea Poroli is going to provide that presentation.

13 MS. POROLI: Good morning.

14 The facility is owned and operated by California
15 Concrete Crushing, Incorporated. The proposed permit is
16 to allow the operation of a large-volume construction and
17 demolition and inert debris CDI processing facility.

18 At the time that the agenda item for the new
19 proposed facility was written, the finding for the
20 requirements of the California Environmental Quality Act,
21 CEQA, had not been completed. On April 28th, 2005, the
22 LEA submitted the final version of the proposed permit,
23 having changed the hours of operation for the facility to
24 be consistent with the provisions of the CEQA document.
25 Both the CEQA document and the final version of the

1 proposed permit provide that the hours of operation for
2 the new CDI processing facility are from 7:00 a.m. to 5:00
3 p.m. Monday through Saturday.

4 A copy of the final version of the proposed
5 permit was provided to you late last week. The revised
6 agenda item and draft Resolution have also been
7 resubmitted for posting on the website. The revised
8 agenda item and draft Resolution now reflect that all the
9 requirements for the proposed new permit have been met.

10 In conclusion, staff recommends that the Board
11 adopt Solid Waste Facility Decision Number 2005-125,
12 concurring in the issuance of Solid Waste Facility Permit
13 Number 34-AA-0215. The LEA and the operator are present
14 to answer any questions you may have.

15 CHAIRPERSON MULÉ: Thank you.

16 Any questions?

17 Board Member Washington.

18 BOARD MEMBER WASHINGTON: If the LEA is here, if
19 they would come forward.

20 MS. DERBY: Good morning. I'm Tammy Derby with
21 Sacramento County.

22 COMMITTEE MEMBER WASHINGTON: Hi, Ms. Derby.

23 Just a couple of questions. I noticed that in
24 the report from our staff that this facility as it exists
25 has some issues. For one, they were operating without a

1 permit. That raised some concerns for me. Is that true?

2 MS. DERBY: It was a misunderstanding, for the
3 most part. They have been operating as an inert recycler,
4 which was not subject to the regs for many, many years.
5 When the CDI regs were promulgated, they began to accept
6 some mixed C&D material. The understanding was they could
7 accept up to 10 percent of the overall volume. When we
8 went out to visit the site and observed that activity, we
9 informed them that that wasn't the intent of that 10
10 percent residual language in the regulations, and they
11 slowed down and then ceased the receipt of that material.

12 COMMITTEE MEMBER WASHINGTON: Yeah. Because I
13 noticed that in the report even after our staff did an
14 inspection, they continued to allow C&D stuff to come in.

15 MS. DERBY: That is accurate.

16 COMMITTEE MEMBER WASHINGTON: And so with the
17 warning, they didn't take heed to your warning they
18 couldn't do it. I noted it says, however, there was some
19 customers with limited amount of separated C&D. But they
20 were still allowing them to bring it. And you informed
21 them again you can't do that.

22 MS. DERBY: There was some minimal material on
23 our second visit that was still on the pad.

24 COMMITTEE MEMBER WASHINGTON: And that certainly
25 raised some concerns for me, Madam Chair, in terms of

1 allowing someone to come in with a new permit to operate,
2 when under the current permit that they're violating just
3 the basic idea they even operate with a permit raises some
4 grave concerns for me.

5 MS. DERBY: Well, I think it's fair to say that
6 the regulations that list the criteria that allows you to
7 not be subject to the regulations or be excluded from the
8 regulations could be misinterpreted. And I think that's
9 what happened in this case.

10 COMMITTEE MEMBER WASHINGTON: And, certainly,
11 you're welcome to, you know -- I share a different view of
12 that.

13 I think that we made it clear in terms of when we
14 passed C&D and other issues in terms of receiving and
15 doing business in the state of California that you operate
16 with a specific permit to operate. And I'm looking here,
17 and they didn't do that. And based on whether they had a
18 different perception or whatever, if they were going to do
19 the business, then they knew they had to get a permit to
20 do this type of work.

21 And so I tell you, Madam Chair, I'm really
22 concerned about this and offering another opportunity, you
23 know, with the basic -- these are some basic things that
24 are of great concern to me. And I'm really not prepared
25 to support allowing -- I notice even with that, Madam

1 Chair, that some issue was raised with the Homeowners' --
2 Glendale Neighborhood Association. Is that a Homeowners'
3 Association?

4 MS. DERBY: Yes, it is. I believe it's College
5 Glenn.

6 COMMITTEE MEMBER WASHINGTON: What is the
7 Business and Transportation Association? Is that a
8 business folks?

9 MS. DERBY: Exactly. Industry association.

10 COMMITTEE MEMBER WASHINGTON: See, they've raised
11 a lot of concerns. And I think that the operator tried to
12 answer some of those concerns with fire and deaths that
13 have occurred at the facility. I don't know. I'm just
14 going off of what we received through the report, as well
15 as the types of trucks that would be coming in the
16 neighborhood, where would these trucks be placed.

17 It's a small community, so you're really talking
18 about a lot of traffic and things like that that are
19 coming into the neighborhood.

20 And I'm just sharing with you my concerns as I
21 sit here to deliberate whether I want to support the idea
22 of giving a facility with these types of problems a permit
23 to come in and bring more stuff, which we don't know if
24 they're going to do it right in the first place, because
25 they're not operating -- or they didn't operate, in all

1 fairness, with the rules that the state of California has
2 set forth in the beginning. I just want to raise that.

3 CHAIRPERSON MULÉ: Howard, do you want to address
4 the issue that this is the first CDI permit that's coming
5 before us? I think that, you know, you may want to expand
6 on that.

7 COMMITTEE MEMBER MARIN: Actually, one of the
8 things --

9 COMMITTEE MEMBER WASHINGTON: In all fairness to
10 Howard, he did come to my office and asked me did I have
11 any concerns. And at the time when he came upstairs --
12 because I certainly would have raised it upstairs with
13 him. And I want to apologize, because you did come up and
14 ask me. And at the time, I wasn't prepared, and I told
15 him, no, everything was okay. But I apologize for that.

16 COMMITTEE MEMBER MARIN: If I may, before Howard
17 answers.

18 One of the things that I agree -- and I
19 traditionally look at things the way that Board Member
20 Washington is expressing the concerns as well. Everybody
21 understands we're here to enforce the law. And we
22 appreciate it when people try to follow the law.

23 However, Mr. Washington, one of the things that I
24 think we need to be very clear is that we do want to have
25 C&D facilities out there. You know, we don't have the

1 infrastructure out there right now to begin with that
2 really will enable the cities to go out and put all of
3 this on C&D versus taking it to the landfill. And as you
4 very well know, the problem that many of the cities have
5 had in not meeting the requirements or actually lagging is
6 because there were no C&D facilities. So it's like six of
7 one, half dozen of the other. We do want these
8 facilities. We want them to operate under the law. But
9 if I understand it correctly, Mr. Washington, that's
10 precisely why they're here.

11 CHAIRPERSON MULÉ: Howard.

12 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
13 Chair.

14 A couple points. Certainly, we share
15 Mr. Washington's concerns about there being violations at
16 this site, as does the LEA, which is why they've been on
17 the site trying to make sure they come back in compliance.

18 This general issue -- let me say one other thing.
19 Yes, this is the first come facility that's come in under
20 our CDI --

21 COMMITTEE MEMBER WASHINGTON: And you know what,
22 Howard? My concern is, are they only there fixing things
23 now because they want a permit to do something else?
24 That's the concern I have. Did they in good faith fix
25 these things because it's the right thing to do? And I'm

1 hoping it's the latter.

2 DEPUTY DIRECTOR LEVENSON: You don't expect me to
3 answer that one, do you?

4 COMMITTEE MEMBER WASHINGTON: No, I don't.
5 Go ahead.

6 DEPUTY DIRECTOR LEVENSON: It is the first
7 facility coming in for a full permit under our CDI
8 processing regs. So it is a significant accomplishment by
9 the operator to come in for this permit.

10 The general issue that you're raising is when we
11 have exceedances of permit terms and conditions that have
12 been historical and then some entity and operator/owner
13 comes in for either revision of a permit or a new permit,
14 it is something that the Board has never spoken directly
15 to. I'll defer to legal in a moment. It's not a basis
16 for denying this particular permit. But it is a policy
17 issue that I think is something the Board may want to
18 explore.

19 Mr. Leary, last month in the presentation on the
20 action items, indicated that enforcement policy was one of
21 the things we needed to follow-up on. And we are planning
22 to have under the osmosis of the Committee a discussion on
23 enforcement policy issues later this summer, and this
24 could be one of those that we provide to you with some
25 background and seek some direction on what to do next. So

1 we recognize that this is kind of an issue of concern.

2 COMMITTEE MEMBER WASHINGTON: And, you know, that
3 goes back to my concern, as Board members, we look like
4 oxymorons sitting here. And we can't deny it, and I
5 understand that. And for someone to violate as they
6 operate now and then says, okay, but this is something
7 different, and you can't deny them, that makes absolutely
8 no sense whatsoever to me. And that's the thing that
9 frustrated me when I first came to the Board, and it still
10 frustrates me today, is we can't deny certain things. And
11 then people in the public get ahold to it, like the
12 College Glenn Neighborhood Association, go to their
13 Legislature and say, "These people have violated. They've
14 caused these things, and then the Waste Board gives them a
15 permit anyway to operate." That's the problem.

16 And so if we're going to do something to try to
17 fix the stuff, I wish we would do it in a hurry so we
18 don't have to continue to sit up here and look like idiots
19 all the time just issuing our permits like they're bubble
20 gum. We can't deny it.

21 STAFF COUNSEL BLEDSOE: Michael Bledsoe from the
22 Legal Office.

23 There are really two issues that you're wrestling
24 with, Mr. Washington. What's before the Committee right
25 now is a proposed permit. But our statutes say if the

1 proposed permit is in compliance with State Minimum
2 Standards, the Board shall concur in it. That's the
3 situation facing you. I think you're expressing a
4 frustration with --

5 COMMITTEE MEMBER WASHINGTON: You know what,
6 Mike?

7 STAFF COUNSEL BLEDSOE: -- with enforcement.

8 COMMITTEE MEMBER WASHINGTON: When even when the
9 permit was first written, if you look at our revised
10 Resolution, we were denying them the permit, because we
11 allowed them to go and fix some stuff or they brought it
12 back saying, "We fixed this or something has happened,"
13 because it's stricken all through the thing, Madam Chairs.
14 So I mean, it's crazy.

15 STAFF COUNSEL BLEDSOE: The initial concern was
16 the lack of compliance with CEQA, which has been
17 accomplished by now.

18 So I think what you're wrestling with is the
19 problem of enforcement, which ultimately leads the
20 facility to say, "Well, I'm going to have to get a new
21 permit if I want to operate in this particular manner."
22 And I think it's fair to say Sacramento County has
23 generally done a good job on enforcement. And I'm sure
24 it's because of their pressure that this operator is here
25 right now. But the only choice Sacramento County would

1 have had under our statutes is a Cease and Desist Order to
2 make them stop operating a large volume facility.

3 COMMITTEE MEMBER WASHINGTON: And certainly my
4 comments is no ways subjective towards the California
5 Concrete Crushing and C&D Recycling. These are just some
6 concerns I'm raising, so I don't want you to think there's
7 a bias towards your company. But these are the issues
8 before us.

9 And, again, I will be voting for it, because I
10 have no choice. So it's not a bias towards your company,
11 but these are issues that we raised during our hearing so
12 no one will leave saying, "God, what's wrong with that
13 guy?" You know, so we can begin the process of trying to
14 address some of these issues.

15 MS. DERBY: Can I make some clarifying comments?

16 COMMITTEE MEMBER WASHINGTON: Sure.

17 MS. DERBY: The facility was evaluated and
18 surveyed when the CDI regs came out initially to evaluate
19 their operations to see where they played into the regs.
20 At that time, they were observed to be operating as an
21 inert recycling facility. So I would hate for the
22 impression to be set that they have not been in compliance
23 with these regs in the past, because they certainly were
24 operating as a inert recycler not subject to the regs.

25 This receipt of mixed C&D was something recent, a

1 short-term receipt, and they did cease when they were told
2 to do so.

3 Another thing I want to clarify is I haven't seen
4 the paperwork that College Glenn has submitted to you.
5 But the remark about fires and death I believe are
6 associated with another facility in Sacramento County, not
7 this facility. So I wouldn't like that connection to be
8 made either.

9 I think that's it.

10 CHAIRPERSON MULÉ: Tammy, I just have a question
11 for you.

12 If this facility does receive their permit, how
13 often do you go and inspect their facility?

14 MS. DERBY: This facility would be in a monthly
15 inspection.

16 CHAIRPERSON MULÉ: So within 30 days of receiving
17 the permit, we would know whether or not they're operating
18 in compliance. And if they're not, you would take the
19 appropriate enforcement action; correct?

20 MS. DERBY: Correct.

21 CHAIRPERSON MULÉ: Thank you.

22 COMMITTEE MEMBER MARIN: And last, but not least,
23 one of things that I want to add is it is our job and our
24 duty to get people to comply. That's our responsibility.
25 Some facilities may or may not for undisclosed reasons be

1 able to operate under the law. But what we want them is
2 to comply with the law. So in order for them to fully
3 comply, they need this permit so we want to give it to
4 them so they are in full compliance; right? To me, it
5 seems very logical.

6 But I do want to stress the fact that we really
7 want all of the facilities out there to abide by the law.
8 That's what we really are seeking. And so we want these
9 people to be successful. We want these companies to be
10 successful. And we certainly -- I don't know if anyone is
11 here from the company. Okay. We want you to be
12 successful. Two hands were raised.

13 CHAIRPERSON MULÉ: We do have Mr. Evan Edgar here
14 representing the company. So, Evan, if you'd like to
15 address the Committee. Thank you.

16 MR. EDGAR: Thank you, Chair and Board members.

17 My name Evan Edgar. I'm the permit engineer for
18 California Concrete Recycling, Inc., and California and
19 C&D Recycling. And Tom Channel is the owner. He's right
20 there. And Mike G. is operator. They're both in the
21 crowd.

22 I've been the permit engineer for the site since
23 1990, and we have CEQA entitlements for what we're doing
24 today back in the year 2000 and 2003. So when the Waste
25 Board for the last five years were negotiating the C&D

1 regs, this operator had the vision and fortitude to have
2 all CEQA land use compliance in place before the regs were
3 even adopted by the Waste Board. So we had our
4 entitlements for 2,000 tons for inerts and 500 tons a day
5 for C&D before the Waste Board even had any authority to
6 even regulate this type of facility.

7 The other facility in the region that has a death
8 and the fires is Florin-Perkins. That was shut down. The
9 LEA did their job. In January, they were shut down. When
10 they were shut down in January, they had no place to go.
11 All the tons that were going into the landfill illegally,
12 and there was a bunch of asbestos and stuff -- they were
13 in trouble at Florin-Perkins. The LEA did their job.
14 They shut them down.

15 All those tons were out in the marketplace. So
16 for a short time, the operator did take some mixed C&D,
17 because the California Concrete Crushing is right next
18 door to Florin-Perkins. There was a little confusion on
19 which facility is which facility. But when Florin-Perkins
20 was shut down, instead of having that material go
21 elsewhere or illegally dumped, this operator did take some
22 mixed C&D for a short time in order to have that recycling
23 service available to the people that had nowhere else to
24 go. So, yes, we did make some. But we had the land use
25 entitlements ever since 2000 to do this.

1 And now this is the first full C&D facility
2 whereby we're delayed over six months because we did
3 comply with the fire control regs up front. We did go
4 through the City fire control and have that approved
5 before we applied. We did have NDFE. So because the new
6 C&D regs are new and exciting, we went the extra yard and
7 did not shift over to other types of packages. We did
8 raise the bar, and the operator did do the right thing.
9 But we did take mixed C&D for a little while, but we had
10 to stop because of the fact the Florin-Perkins landfill in
11 the community was not taking waste anymore. Thank you.

12 CHAIRPERSON MULÉ: Thank you, Mr. Edgar.
13 Appreciate that.

14 COMMITTEE MEMBER MARIN: One more thing. You're
15 taking 2,000 tons a day of C&D and MSW?

16 MR. EDGAR: It's 2,000 tons a day C&D and inerts.
17 No MSW. Just mixed C&D and inert. 500 tons is C&D, and
18 the balance of the 2,000 is clean inerts, concrete.

19 COMMITTEE MEMBER MARIN: And I can't do the math.
20 But if we were to do this and diverting this on a yearly
21 basis, we're talking about a very significant amount that
22 is not going to the landfill, because that's where it
23 would go if this facility is not permitted.

24 MR. EDGAR: That's where it was going until
25 February when Florin-Perkins was shut down. Now this will

1 be recycled instead.

2 COMMITTEE MEMBER MARIN: I think we need to be
3 very clear about that. Otherwise, if we don't allow this
4 facility to be permitted, that's where in our own goals of
5 diversion for the entire state go down. But we expect --
6 and, you know, the owners are here. We expect people to
7 really comply with the law. And we appreciate the fact
8 that you've gone to the extra length. We appreciate it.

9 CHAIRPERSON MULÉ: Thank you.

10 Tammy, I see you're the only speaker listed on
11 this. You've said your peace. Thank you very much.

12 Are there any other speakers out there that wish
13 to address the Committee?

14 With that, do I hear a motion for approval?

15 COMMITTEE MEMBER MARIN: Move approval of -- I'm
16 trying to get to my Resolution. 2005-1125 revised.

17 COMMITTEE MEMBER WASHINGTON: Second.

18 CHAIRPERSON MULÉ: Moved by Chairwoman Marin and
19 seconded by Board Member Washington.

20 Donnell, please call the roll.

21 SECRETARY DUCLO: Marin?

22 COMMITTEE MEMBER MARIN: Aye.

23 SECRETARY DUCLO: Washington?

24 COMMITTEE MEMBER WASHINGTON: Aye.

25 SECRETARY DUCLO: Chair Mulé?

1 CHAIRPERSON MULÉ: Aye.

2 And this, Howard, we can put this on consent for
3 our Board meeting.

4 DEPUTY DIRECTOR LEVENSON: At your pleasure.

5 CHAIRPERSON MULÉ: Is that the pleasure of the
6 Committee?

7 DEPUTY DIRECTOR LEVENSON: Thank you.

8 I do want to indicate this was an instance where
9 there was a very short term and recent violation. The LEA
10 took appropriate action with working with the operator,
11 and the operator responded.

12 But you have raised a broader policy issue
13 about -- LEAs have a lot of discretion in terms of working
14 cooperatively with operators to try to bring them into
15 compliance before they take formal enforcement action.
16 What's the right threshold? What's the right balance?
17 And that's a topic that we can explore with you and LEAs
18 and operators further.

19 CHAIRPERSON MULÉ: That's one we're very
20 interested in discussing. Thank you, Howard.

21 Our next item is Item C.

22 DEPUTY DIRECTOR LEVENSON: Item C, Number 2 on
23 the P&E agenda, is Consideration of a Revised Full Solid
24 Waste Facility Permit for the Otay Landfill in San Diego
25 County. Tad Gebre-Hawariat will present this item.

1 MR. GEBRE-HAWARIAT: Good morning.

2 CHAIRPERSON MULÉ: Good morning.

3 MR. GEBRE-HAWARIAT: The proposed revised permit
4 is to allow the following: Change the hours of operation
5 from the current 6:00 a.m. to 5:00 p.m. seven days per
6 week to 6:00 a.m. to 5:00 p.m. six days per week and allow
7 a customer convenience center special operations on a one
8 Sunday per month.

9 The permit is also to change the rate of waste
10 received from the current 5,000 tons per day to 5,830 tons
11 per day and/or 35,000 tons per week of solid waste for
12 disposal; and 1,167 tons per day and/or 7,002 tons per
13 week of non-hazardous material; these green materials,
14 wood, biosolids; and crushed concrete and asphalt for
15 alternative daily cover and beneficial reuse; and also 292
16 tons per day and/or 1,752 tons per week of recyclables.
17 These are CRT, CD, and white goods, et cetera, for
18 diversion.

19 The permit is also to change the landfill design
20 capacity, or air space, from the current 59,857,199 cubic
21 yards to 61,154,000 cubic yards on the basis of a new
22 computation.

23 And, lastly, the permit is to change the estimate
24 of the closure period for the landfill from 2027 to 2021.

25 As we have indicated in the agenda item, the

1 operation of the landfill continues to be in violation of
2 the terms and conditions of the existing permit. And the
3 operation may encounter challenges in maintaining even the
4 newly proposed daily maximum tonnage limit for disposal.
5 Howard, also as we have indicated in the table on page 2-3
6 of the agenda item, all of the requirements for the
7 proposed revised permit have been met.

8 Therefore, staff recommends that the Board adopt
9 Resolution Number 2005-126, concurring with the issuance
10 of Solid Waste Facility Permit Number 37-AA-0010.

11 Also Karry McNeil and Ms. Pamela Raptis from the
12 LEA and Mr. Ambrosos from the operator are here to answer
13 any questions you may have.

14 This concludes my presentation.

15 CHAIRPERSON MULÉ: Thank you.

16 Do we have any questions, Board members?

17 COMMITTEE MEMBER MARIN: I've been to this
18 facility, Madam Chair. And I will tell you something
19 about it. Let me see if this is correct. This is where
20 they have this lady that welcomes everybody and sorts them
21 out, right. She's amazing. And you know what they had?
22 They had --

23 COMMITTEE MEMBER WASHINGTON: Cheryl Peace.

24 COMMITTEE MEMBER MARIN: Cheryl Peace clothes
25 recycling. I thought that was fabulous. Can you believe

1 it? So I picked up this one from there. No. I practice
2 what I preach. I reuse.

3 I found this facility just remarkable. I think
4 they're doing an incredible job. I would hope that they
5 would keep under the limit. So this just increases the
6 limit; right?

7 MR. GEBRE-HAWARIAT: Yes.

8 COMMITTEE MEMBER MARIN: And I know that they
9 have a significant challenge. I have no problem with this
10 permit. So unless there are any questions, I'll move
11 approval.

12 COMMITTEE MEMBER WASHINGTON: I would just like
13 to add, Madam Chair, I was there -- Thursday or Friday?
14 Thursday. And the facility is, as you said, in a great
15 spot. And when you go to the landfills and see where
16 they're located versus community, it's absolutely great to
17 see people really take into consideration the folks around
18 them when they're putting these facilities up. The first
19 thing I saw was the Cheryl Peace Clothes Recycling process
20 sitting up there. And it was great to see those folks
21 there and the welcoming folks there. It was a neat
22 situation.

23 CHAIRPERSON MULÉ: I do have some questions, if
24 you will indulge me, Committee members.

25 I also was at the site about a month ago, and I

1 know there is an ongoing issue with this facility
2 exceeding its daily permitting capacity. And I was told
3 at the time that part of the reason is because a city had
4 rerouted their trash trucks, and they were getting a lot
5 of waste every Thursday. And I believe it was trucks that
6 would normally come in over a three-day period were now
7 coming in over a one-day period.

8 But I would like either the LEA and/or the
9 operator to further explain this. Because I do have some
10 concerns with this facility exceeding its daily permitted
11 capacity. And I want some assurances of what are you
12 going to do to address that, and how is that going to be
13 addressed, because it is a concern of mine. I mean, we
14 need to have everybody operating within the criteria of
15 their permit. So if someone wants to come up and explain
16 that, I'd appreciate it.

17 MS. MC NEIL: Good morning. My name is Karry Mc
18 Neil. I'm with the San Diego County LEA.

19 This permit was actually applied for in 2003.
20 And it's taken us quite a while to get through the CEQA
21 determinations to be sure that we could, indeed, make
22 findings under these existing EIR. We did have two
23 hearings, and they are exceeding their total daily
24 tonnage.

25 The way this permit was crafted was more

1 restrictive than the EIR, and so it includes everything
2 going across the scale. It includes the green waste. It
3 includes the recyclables. It includes the CDI used as wet
4 weather pads and things like that. And so they have been
5 exceeding their permit.

6 There's been a lot of pressures in the community
7 as far as the general waste that's being accepted.
8 San Diego is growing really fast. We had the big huge
9 fire. We've had a lot of issues out there. Now, what we
10 did was we did write a Notice of Order -- enforcement
11 order against them in October and told them to comply.
12 Part of the compliance was to be here today. Part of the
13 compliance was to manage their traffic so they would stop
14 their exceedances. They were not very successful.

15 They have not been successful at keeping from
16 exceeding the 5,000 tons a day. I will point out it's
17 5,000 tons a day up to 35,000 tons a week. And that is
18 not changing. It's going from seven days a week to six
19 days a week. So the total buried waste will remain the
20 same. But we're pulling out the recyclables and the green
21 waste and things like that.

22 Now, when I look at the last three months of
23 total buried waste and their compliance, they are
24 exceeding their total daily tonnage of 5,000 tons a day.
25 But they are very rarely exceeding their 5,835 tons a day

1 for the projected proposed new permit. When I look at the
2 records, in January, they exceeded two days out of the
3 31-day period by 159 tons one day, and 372 tons another
4 day, if they were under the new proposed permit. Then
5 also in February they exceeded it one day by 48 tons. So
6 I think they have made an effort.

7 And we are having an enforcement plan now. We
8 are going to follow our EPP. When they exceed their total
9 daily tonnage, we will begin the enforcement action with
10 our EPP, which is already on file with your office, with
11 an official notice, with a compliance meeting with the
12 local administrative hearing. We will follow our EPP and
13 go all the way up to fines if we need to.

14 Now I have a letter from the applicant stating
15 they will comply with this new permit condition and the
16 efforts they will take in order to comply. I know they're
17 proceeding with the Sycamore Landfill expansion proposal.
18 I know that Gregory Canyon will be coming online hopefully
19 within the next year. And, hopefully, that will take some
20 of the pressure off. But in the mean time, if they do not
21 comply, we will take enforcement. We have not taken
22 significant enforcement over this last year, because we
23 have been in the permit process.

24 CHAIRPERSON MULÉ: Thank you, Karry.

25 And I know when I did follow up on our staff

1 report on the days they exceeded their daily capacity,
2 consequently, all but two were on a Thursday. So it seems
3 like there is a pattern there.

4 COMMITTEE MEMBER MARIN: Can I ask a question?

5 CHAIRPERSON MULÉ: Sure.

6 COMMITTEE MEMBER MARIN: But if we already know
7 they're going to be exceeding it by 42 tons, why don't we
8 just give it to them for 6,000?

9 MS. MC NEIL: We have a problem with our EIR.
10 Our FEIR is very clear the 5,000 tons per day, 34-, 35,000
11 tons a week. If we're going to exceed our EIR, we would
12 need to do a supplemental EIR. We have maxed out our use
13 of our FEIR that was done in 2000. It's the LEA's
14 findings in our CEQA that if we're going to do any more,
15 we will have to do a supplemental EIR. So we're tied in
16 with that.

17 COMMITTEE MEMBER MARIN: Okay. And who requires
18 the EIR?

19 MS. MC NEIL: Well, if they were going to do a
20 permit change when they would come to us, they would have
21 to go to our Department of Planning and Land Use, and they
22 would make the determination.

23 COMMITTEE MEMBER MARIN: Who's here representing
24 that facility?

25 MR. AMBROSO: My name is Jim Ambroso. I'm the

1 District Manager for Allied Waste.

2 COMMITTEE MEMBER MARIN: Thank you for being
3 here.

4 My question is, will you have the commitment that
5 you will not surpass the daily limit?

6 MR. AMBROSO: Yes. We're going to make the
7 commitment here before and with the LEA that we will stay
8 within the new daily cap.

9 COMMITTEE MEMBER MARIN: Even on Thursday?

10 MR. AMBROSO: Even on Thursday, as difficult as
11 that is. What we will have to do is shift the waste to
12 our Sycamore Landfill, which has reached its capacity on a
13 daily basis as well fairly often. Likewise, Sycamore may
14 have to divert its waste over to the Miramar Landfill.

15 The region is exploding. We obviously have a
16 daily cap problem in the region, so somebody is probably
17 going to be exceeding. I'm here to tell you that Otay
18 will not. We will make that commitment to stay within
19 these new boundaries.

20 CHAIRPERSON MULÉ: Mr. Washington.

21 COMMITTEE MEMBER WASHINGTON: Jim, how do we stop
22 that from happening with any of them? Is it what Madam
23 Chair Marin said, we need to raise your tonnage from 5,000
24 to 6,000? What needs to happen? Because it sounds like
25 it's going to go in a circle until somebody gets caught.

1 COMMITTEE MEMBER MARIN: That's what I'm saying.

2 Why don't we do it to 6,000?

3 MR. AMBROSIO: You're correct. That's what's

4 going to happen. It's going to get shifted and let

5 someone else exceed their cap and get the NOV's.

6 There's things we can do. As Ms. McNeal

7 mentioned, Sycamore is going through an expansion right

8 now. We're hopeful in twelve months we will have that

9 before you and finish that process. That will increase

10 the cap significantly to absorb the growth in the region.

11 COMMITTEE MEMBER WASHINGTON: So bringing on

12 Gregory Canyon and other folks that would help, and

13 hopefully, they won't fall right into the line and

14 start -- you know, see, I don't remember what the tonnage

15 was for Gregory Canyon.

16 MR. GEBRE-HAWARIAT: 5,000.

17 COMMITTEE MEMBER WASHINGTON: So the same thing.

18 So it sounds like to me at some point because -- you know,

19 waste continues to come, no matter what happens. And the

20 way it looks to me, San Diego is growing by leaps and

21 bounds, that you're going to end up in the same situation

22 until you start raising that tonnage. I mean, you know,

23 that's just a comment. For the LEA, it just seems like

24 you're going to have that issue that's going to be before

25 you.

1 MR. AMBROSIO: One other item I might add, and
2 that is the ability to add diversion programs helps. We
3 are, maybe to their dismay, going to file applications
4 very soon for construction and demolition permits, and
5 that will offset some of this diversion. It is good.
6 Unfortunately, it's more work for them to process. But we
7 look forward to working with them on that, and that will
8 help you offset some of the daily cap problem.

9 CHAIRPERSON MULÉ: Thank you. Really appreciate
10 your time. And thank you, Karry.

11 Again, I just want to make sure that there is a
12 commitment on behalf of the operator and the LEA to make
13 sure that the conditions of the permit are adhered to.
14 Thank you.

15 Do I hear a motion?

16 COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd
17 like to move adoption of Resolution 2005-126.

18 COMMITTEE MEMBER MARIN: Second.

19 CHAIRPERSON MULÉ: We have a motion by Board
20 Member Washington, seconded by Chairwoman Marin.

21 Could you substitute the previous roll. And we
22 will put that on consent as well.

23 Our next item is Item D, Howard.

24 DEPUTY DIRECTOR LEVENSON: Thank you.

25 Item D is Consideration of the Revised Full Solid

1 Waste Facility Permit for the Palomar Transfer Station,
2 San Diego. Tad will, again, give that presentation.

3 MR. GEBRE-HAWARIAT: The proposed revised permit
4 is to allow the following: Increase the facility size
5 from 7.24 to 11 acres; increase the area of the transfer
6 station building and loading bay from 11,000 to 17,700
7 square feet; modify the hours of operation for the receipt
8 of waste from the current 5:00 a.m. to 12:00 a.m. seven
9 days per week to 5:00 a.m. to 8:00 p.m. seven days per
10 week for the commercial vehicles; and 7:00 to 4:00 Mondays
11 through Fridays; and 7:30 to 4:00 on Saturday and Sundays
12 for the public; and allow transfer of activities 24 hours
13 per day.

14 The permit is also to increase the traffic volume
15 from the current 522 vehicles per day to 1,937 passenger
16 car equivalents per day. And the permit is also to
17 increase the permitted maximum tonnage from 800 tons per
18 day to 2,250 tons per day with a 14,000 tons per week
19 maximum.

20 As we have indicated in the table on page 3-3 of
21 the agenda item, all of the requirements for the proposed
22 permit have been met. Therefore, staffs recommends that
23 the Board adopt Resolution Number 2005-127 concurring with
24 the issuance of Solid Waste Facility Permit Number
25 37-AA-0001. And the LEA and operator are here also.

1 CHAIRPERSON MULÉ: Do we have any questions?

2 COMMITTEE MEMBER WASHINGTON: No, just a comment.

3 No violation, no opposition, my God.

4 CHAIRPERSON MULÉ: Madam Chair, do you have any?

5 COMMITTEE MEMBER MARIN: I've been to this

6 facility. I have no problem with it. So thank you so

7 very much.

8 CHAIRPERSON MULÉ: I was just going to say, we've
9 been talking quite a bit about holding public hearings and
10 having them in the evening. And I understand this

11 facility did, in fact, hold their public hearing in the
12 evening so that working folks that work from 9:00 to 5:00
13 or 8:00 to 5:00 could attend the public hearing.

14 MR. GEBRE-HAWARIAT: In the daytime, in this
15 case, because there are no residences nearby. But to
16 accommodate the industry and commercial folks in the
17 daytime, they held it during daytime.

18 CHAIRPERSON MULÉ: I thought they did one in the
19 day and one in the evening.

20 MR. GEBRE-HAWARIAT: Otay was in the evening.

21 CHAIRPERSON MULÉ: Anyway, good job.

22 COMMITTEE MEMBER MARIN: You're ready for a
23 Resolution 2005-127, move approval.

24 COMMITTEE MEMBER WASHINGTON: Second.

25 CHAIRPERSON MULÉ: I have a motion by Board Chair

1 Marin and seconded by Board Member Washington.

2 Substitute the previous roll. And we will put
3 that one on our consent agenda as well.

4 Our last item for today is Item E.

5 DEPUTY DIRECTOR LEVENSON: Our last one is
6 Consideration of a Revised Full Solid Waste Facilities
7 Permit for the Landers Sanitary Landfill in San Bernardino
8 County. And Gerri Stryker will give that presentation.

9 SUPERVISOR STRYKER: Good morning, Committee
10 Chair and Members.

11 The Landers Solid Waste Disposal Facility is
12 located about two miles south of the community of Landers
13 in San Bernardino County and is operated by the San
14 Bernardino County Solid Waste Management Division.

15 The proposed permit will increase the liquid
16 waste tonnage from 96 tons per day to 200 tons per day
17 without changing the overall maximum daily tonnage of
18 1200. I'd like to note also, though, that the liquid
19 waste is being disposed of in state-of-the-art lined ponds
20 that have been approved by the Regional Water Board.

21 Second, the proposed permit will change the
22 estimated closure date from 2008 to 2013; will remove
23 permit condition number 17.2 from the LEA conditions
24 section of the existing permit, since the actual hours of
25 operation are stated in the joint technical document.

1 Existing LEA condition number 17.12 is removed in the LEA
2 condition section of the permit. In the revised permit,
3 local enforcement agency condition section has been
4 updated, and the new 17c addresses what the operator is
5 required to do prior to changing operations. And the
6 proposed permit will change the name of the facility from
7 the Landers Solid Waste Disposal Site to the Lander
8 Sanitary Landfill.

9 The LEA conducted a 1497 hearing on February 10th
10 at 3:00 p.m. Along with the LEA staff, seven members of
11 the public attended. The LEA has received and forwarded
12 to the Board eight written comments opposing the revised
13 permit. Mark de Bie will expand on the issues raised.

14 BRANCH MANAGER DE BIE: Thank you, Gerri. Mark
15 de Bie with Permitting and Inspection.

16 The LEA did forward both their notes from that
17 hearing, as well as the correspondence that they received,
18 to Board staff, and we've looked at the issues raised
19 there. They fall into two main areas. One is concerns
20 about contamination to groundwater from the increase in
21 additional liquid waste going into those Class II ponds,
22 as well as concerns about the current state of the roads
23 going into the state and the effect of the landfill
24 traffic on those roads.

25 Relative to the traffic issue -- I'm just going

1 to give an overview here, and the LEA and the consultant
2 for the operator are here to add any details they need.

3 Relative to the traffic, this permit does not
4 increase the number of vehicles allowed to go to the site.
5 That is not a change that we're addressing here. But the
6 concerns -- there are concerns by the public about the
7 current state, the baseline relative to traffic and the
8 maintenance of those roads.

9 Relative to the effect of contamination to the
10 groundwater from the increase in sludge coming into the
11 site from the current state up to 200, there is currently
12 contamination to the groundwater. It's historic. The
13 Regional Board became aware of it in the late '80s and
14 started immediately working with the operator to come up
15 with some monitoring and corrective actions on that issue.
16 One of the sources of that contamination was found to be
17 some unlined sludge handling ponds that have since been
18 clean closed, removed all the material, and that is no
19 longer in place. They did construct these Class II fully
20 lined ponds to replace those. And there's no evidence
21 that those particular cells are contributing currently to
22 the historic ground water issues.

23 Another source of contamination in the
24 groundwater has been thought to be the landfill gas. This
25 is an unlined site. There is no Subtitle D liner. It's a

1 very old cell. It's been there for many, many years prior
2 to the requirements to put in a current state-of-the-art
3 liner. And landfill gas has been noted by the Regional
4 Board to be a potential impact to the groundwater.

5 Both levels of impacts have been noted, and I'm
6 referring to information that I gleaned out of the joint
7 technical document. The level of contamination of the
8 groundwater is actually decreasing. And it's going down.
9 So it's not getting any worse. It is decreasing. There
10 isn't any landfill gas issues at the landfill gas
11 monitoring well. So there's no gas issues relative to gas
12 migrating off site, which is something that the LEA and
13 the Waste Board are directly involved with. But there
14 seems to be some contamination to the groundwater.

15 There are actions in place required by the
16 Regional Board to deal with that contamination, and those
17 would continue on. And there are projections, and when
18 the level of contamination from both the historic site
19 source of contamination and the landfill gas, there's
20 projections on when that contamination will be brought
21 down to acceptable levels.

22 Groundwater is not necessarily within the purview
23 of the Board and the LEA. We defer to our sister agency,
24 the Regional Board on that. So we continue to monitor
25 that and see if there are issues that we need to be

1 involved with.

2 There were some questions I think generally, too,
3 about the level of notice for this change that were
4 brought out by the community. There was a CEQA process
5 that was gone through. It appears that maybe the noticing
6 wasn't as complete as it should have been, because the
7 interested parties indicated they were not aware of the
8 availability of that document. It's staff's understanding
9 that once that was recognized, there were efforts made to
10 accommodate for that, and the comment period was extended
11 for the CEQA to accommodate that process.

12 The LEA did conduct a 1497 hearing that was
13 effectively noticed, and the public did appear and were
14 made aware of what was going on and had an opportunity to
15 participate, and that resulted in some of the letters that
16 were forwarded to us.

17 To staff's knowledge, we have not received any
18 direct correspondence from the interested parties. Staff
19 did contact the entities that we were aware of to make
20 sure they were aware of this Committee meeting, and there
21 was some indication they might be forwarding some written
22 comments. We have not seen them as yet. And I'm looking
23 around the room. No one else has seen them as yet. So I
24 don't know if that's an indication that their issues have
25 been addressed or they just weren't able to produce the

1 documentation.

2 So I'll pass it back to Gerri for staff's
3 finishing up the presentation.

4 CHAIRPERSON MULÉ: Thank you, Mark.

5 SUPERVISOR STRYKER: The LEA has certified that
6 the application package is complete and correct and that
7 the joint technical document meets the requirements of the
8 California Code of Regulations. The LEA has determined
9 that the California Environmental Quality Act has been
10 complied with.

11 As indicated on page 4-3 of the agenda, at the
12 time this item was prepared, Board staff had determined
13 all but one of the requirements of the proposed permit was
14 met. Now Board staff has made all the required findings,
15 including the finding that the required annual deposit has
16 been received and the financial assurance mechanism is
17 adequately funded.

18 Board staff recommends that the Board adopt Solid
19 Waste Facility Permit Decision Number 2005-128 concurring
20 in the issuance of the Solid Waste Facility Permit Number
21 36-AA-0057. Representatives from the San Bernardino
22 County LEA and the operator are available to answer your
23 questions. And that concludes staff's presentation.

24 BRANCH MANAGER DE BIE: If I may interject
25 relative to that last late-breaking news item. The item

1 and the Resolution are being revised to reflect that
2 change. And I don't think it's appeared as yet.

3 SUPERVISOR STRYKER: She made the change this
4 morning, I think.

5 BRANCH MANAGER DE BIE: But it hasn't been posted
6 and forwarded to you as yet. But we are verbally
7 indicating that we are able to make all the findings at
8 this time relative to the financial assurance.

9 CHAIRPERSON MULÉ: Okay. Thank you, both Gerri
10 and Mark.

11 Any questions?

12 Board Member Washington.

13 COMMITTEE MEMBER WASHINGTON: Just one. For the
14 LEA, is the LEA here? I just have a -- one of the
15 complaints was about the trucks and they mention an
16 elementary school. How close are the trucks going by the
17 elementary school, do you know? The owner or someone --

18 MR. PERRY: There are no structures within --

19 COMMITTEE MEMBER WASHINGTON: When people are
20 saying you're coming by my school, they could be talking
21 here or here. And I'm just --

22 CHAIRPERSON MULÉ: We have to get you on record.
23 Thank you.

24 COMMITTEE MEMBER WASHINGTON: So the school --
25 I'll have you say it again.

1 MR. PERRY: My name is Michael Perry with the
2 Lilburn Corporation. We're working with the San
3 Bernardino County Solid Waste Management Department.

4 The nearest school is in excess of a mile away.
5 The trucks go by the schools all the time. In this
6 particular case, I think they're just concerned they're
7 going directly to the landfill. It's not on the road to
8 the landfill.

9 CHAIRPERSON MULÉ: Thank you.

10 Chairwoman Marin.

11 COMMITTEE MEMBER MARIN: I have a question. It
12 says here that the Bighorn-Desert View Water Agency has a
13 problem with this. Is that the Regional Board for that
14 area?

15 DEPUTY DIRECTOR LEVENSON: That's a separate
16 water agency that has some concerns, and they were the
17 ones that Mark alluded to as not being notified initially
18 about the CEQA documentation and requested an extension
19 and did receive it. Gerri or her staff have been in
20 contact with this water agency, and they indicated they
21 may submit something in writing to you prior to the Board
22 meeting and they may be at the Board meeting itself, but
23 we haven't seen anything yet. But it's not the Regional
24 Water Board.

25 COMMITTEE MEMBER MARIN: I wanted to make sure

1 that is not the Regional Quality Water Board. So the
2 Water Board has not had a problem with this; correct?

3 BRANCH MANAGER DE BIE: Mark de Bie.

4 As indicated, the Regional Board does have a
5 problem with it, and they're under a corrective action and
6 working toward --

7 COMMITTEE MEMBER MARIN: But not this current
8 one?

9 BRANCH MANAGER DE BIE: They have no issue with
10 the increase in tonnage on the sludge. It's going to the
11 Class II, which is fully permitted by them and not thought
12 to be an issue with the contamination.

13 COMMITTEE MEMBER MARIN: I understood that. But
14 not a problem with this particular extension right now.

15 So with that -- and if they did, that would be
16 for them to reject this anyway.

17 So with that, I move approval of Resolution
18 2005-128 revised.

19 COMMITTEE MEMBER WASHINGTON: Second.

20 CHAIRPERSON MULÉ: We have a motion by Chair
21 Marin, and seconded by Board Member Washington.

22 You can substitute the previous roll.

23 And I think what we'll do is we will put this one
24 on our consent agenda, and if we need to pull it at the
25 Board meeting, we can do so.

1 DEPUTY DIRECTOR LEVENSON: Certainly, if we get
2 any communication directly to staff from the Bighorn Water
3 Agency or anyone else, we will let you know right away.

4 CHAIRPERSON MULÉ: Okay. That's it.

5 Do we have any other members of the public that
6 wish to address the Board?

7 With that, this meeting is adjourned.

8 (Thereupon the California Integrated Waste
9 Management Board, Board of Administration
10 Permitting and Enforcement Committee
11 adjourned at 11:13 a.m.)
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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 9th day of May, 2005.

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23 TIFFANY C. KRAFT, CSR, RPR
24 Certified Shorthand Reporter
25 License No. 12277

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